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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-82788; File No. SR-NYSEArca-2018-13)

February 27, 2018

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Wilshire Micro-Cap ETF

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 13, 2018, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect changes to certain representations made in the proposed rule change previously filed with the Commission pursuant to Rule 19b-4 relating to the Wilshire Micro-Cap ETF (the “Fund”). Shares of the Fund are currently listed and traded on the Exchange under NYSE Arca Rule 5.2(j)(3)-E. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved the listing and trading on the Exchange of shares (“Shares”) of the Fund, under NYSE Arca Rule 5.2-E(j)(3) (formerly NYSE Arca Equities Rule 5.2(j)(3)), which governs the listing and trading of Investment Company Units.<sup>4</sup> The Fund’s Shares are currently listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3).<sup>5</sup> The Fund is a series of the Claymore Exchange-Traded Fund Trust (“Trust”).<sup>6</sup>

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<sup>4</sup> An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Rule 5.2-E(j)(3)(A).

<sup>5</sup> The Commission previously approved the listing and trading of the Shares of the Fund. The Exchange filed a proposed rule change relating to the Fund because Fund’s underlying index—the Wilshire US Micro-Cap Index<sup>SM</sup> (the “Index”)—did not meet the criteria set forth in Commentaries .01(a)(A)(1) and .01(a)(A)(5) of NYSE Arca Rule 5.2-E(j)(3) applicable to Units based on U.S. indexes or portfolios. See Securities Exchange Act Release Nos. 62737 (August 17, 2010), 75 FR 51863 (August 23, 2010) (SR-NYSEArca-2010-64) (Order Approving Proposed Rule Change Relating to Listing of the Wilshire Micro-Cap ETF) (“Approval Order”); 62471 (July 8, 2010) (SR-NYSEArca-2010-64) (Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Relating to Listing of the Wilshire Micro-Cap ETF) (the “Notice” and, together with the Approval Order, the “Releases”).

<sup>6</sup> See Claymore Exchange-Traded Fund Trust’s registration statement on Form N-1A, dated December 29, 2017 (File Nos. 333-134551; 811-21906).

PowerShares Exchange-Traded Fund Trust has filed a combined prospectus and proxy statement (the “Proxy Statement”) with the Commission on Form N-14 describing a “Plan of Reorganization” pursuant to which, following approval of the Fund’s shareholders, all or substantially all of the assets and all of the stated liabilities included in the financial statements of the Fund would be transferred to a corresponding, newly-formed fund of the PowerShares Exchange-Traded Fund Trust, described below. According to the Proxy Statement, the investment objective of the Fund will be the same following implementation of the Plan of Reorganization (“Reorganization”).<sup>7</sup> Following shareholder approval and closing of the Reorganization, investors will receive shares of beneficial interest of the PowerShares Wilshire Micro-Cap Portfolio (and cash with respect to any fractional shares held, if any) with an aggregate net asset value equal to the aggregate net asset value of the Shares of the Fund of the Trust calculated as of the close of business on the business day before the closing of the Reorganization.

In this proposed rule change, the Exchange proposes to reflect a change to certain representations made in the proposed rule change previously filed with the Commission pursuant to Rule 19b-4 relating to the Fund, as described above,<sup>8</sup> which changes would be implemented as a result of the Plan of Reorganization.<sup>9</sup>

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<sup>7</sup> See registration statement on Form N-14 under the Securities Act of 1933 (15 U.S.C. 77a) (“1933 Act”), dated November 21, 2017 (File No. 333-221699). The definitive, final version of the Proxy Statement was filed with the Commission pursuant to Rule 497 under the 1933 Act on January 5, 2018.

<sup>8</sup> See note 5, *supra*.

<sup>9</sup> The Fund’s investment adviser, Guggenheim Funds Investment Advisors, LLC, represents that it will manage the Fund in the manner described in the proposed rule change for the Fund as referenced in note 4, *supra*, and the changes described herein will not be implemented until this proposed rule change is operative.

## Wilshire Micro-Cap ETF<sup>10</sup>

The Notice stated the name of the Fund as Wilshire MicroCap ETF. Following the Reorganization, the name of the Fund will be PowerShares Wilshire Micro-Cap Portfolio.

The Notice stated that the Fund is a series of the Claymore Exchange-Traded Fund Trust. Following the Reorganization, the Fund's trust will be PowerShares Exchange-Traded Fund Trust. The Fund's investment adviser is Guggenheim Funds Investment Advisors, LLC. Following the Reorganization, the Fund's investment adviser will be Invesco PowerShares Capital Management LLC.<sup>11</sup>

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<sup>10</sup> On October 20, 2017 the PowerShares Exchange-Traded Fund Trust filed with the Commission a pre-effective amendment to its registration statement on Form N-1A under the 1933 Act and under the 1940 Act relating to the Fund (File Nos. 333-147622 and 811-22148). The October 20, 2017 filing is intended to create a new entity to serve as the vehicle into which the Fund will be reorganized through the Plan of Reorganization contained in the Proxy Statement. In addition, the Commission has issued an order granting certain exemptive relief to the PowerShares Exchange-Traded Fund Trust under the 1940 Act. See Investment Company Act Release No. 28171 (February 27, 2008) (File No. 812-13386, as amended by Investment Company Release No. 28467) (October 27, 2008) (File No. 812-13491).

<sup>11</sup> Invesco PowerShares Capital Management LLC is not registered as a broker-dealer but is affiliated with a broker-dealer. Invesco PowerShares Capital Management LLC has implemented and will maintain a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) Invesco PowerShares Capital Management LLC becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio.

An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, with respect to PowerShares Wilshire Micro-Cap Portfolio, Invesco PowerShares Capital Management LLC, as adviser, and its related personnel, are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment

The Fund's current distributor is Guggenheim Funds Distributors, LLC. Following the Reorganization, the Fund's distributor will be Invesco Distributors, Inc.

The investment objective of the Fund will remain unchanged. In addition, the Index underlying the Fund meets and will continue to meet the representations regarding the Index as described in the Releases.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>12</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and is designed to promote just and equitable principles of trade and to protect investors and the public interest.

PowerShares Exchange-Traded Fund Trust has filed the Proxy Statement describing the Reorganization pursuant to which, following approval of the Fund's shareholders, all assets of

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advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

<sup>12</sup>

15 U.S.C. 78f (b)(5).

the Fund would be transferred to a corresponding fund of the PowerShares Exchange-Traded Fund Trust. This filing proposes to reflect organizational and administrative changes that would be implemented as a result of the Reorganization, including changes to the Fund's names, the trust entity issuing shares of the Fund, the adviser to the Fund and the distributor for the Fund. As noted above, Invesco PowerShares Capital Management LLC is not registered as a broker-dealer but is affiliated with a broker-dealer. Invesco PowerShares Capital Management LLC has implemented and will maintain a fire wall with respect to its affiliated broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) Invesco PowerShares Capital Management LLC becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. According to the Proxy Statement, the investment objective of the Fund will be the same following implementation of the Reorganization. The Exchange believes these changes will not adversely impact investors or Exchange trading. In addition, the Index underlying the Fund meets and will continue to meet the representations regarding the Index as described in the Releases.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

Exchange believes the proposed rule change will enhance competition and benefit of investors and the marketplace by permitting continued listing and trading of Shares of the Fund following implementation of the changes described above that would follow the Reorganization, which changes would not impact the investment objective of the Fund.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposal would allow the Exchange to reflect organizational and administrative changes to the Fund that would be implemented as a result of the Reorganization, including changes to the Fund's name, the trust entity issuing shares of the Fund, the adviser to the Fund, and the distributor for the Fund. The Exchange represents that the investment objective of the Fund will remain the same, and the Index underlying the Fund meets and will continue to meet the representations regarding the

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<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Index as described in the Releases. The Commission believes that the proposal raises no new or novel regulatory issues and waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-13 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2018-13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

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<sup>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).



your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2018-13 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

